

AMENDMENTS TO LB714

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 10 of this act provide a procedure for
4 judicial emancipation of a minor.

5 Sec. 2. A minor who is at least sixteen years of age, who is married
6 or living apart from his or her parents or legal guardian, and who is a
7 legal resident may file a petition in the district court of his or her
8 county of residence for a judgment of emancipation. The petition shall be
9 signed and verified by the minor.

10 Sec. 3. A petition for emancipation filed pursuant to section 2 of
11 this act shall state:

12 (1) The name, age, and address of the minor;

13 (2) The names and addresses of the parents of the minor, if known;

14 (3) The name and address of any legal guardian of the minor, if
15 known;

16 (4) If the name or address of a parent or legal guardian is unknown,
17 the name and address of the child's nearest known relative residing
18 within this state;

19 (5) Whether the minor is a party to or the subject of a pending
20 judicial proceeding in this state or any other jurisdiction, or the
21 subject of a judicial order of any description issued in connection with
22 such pending judicial proceeding, if known;

23 (6) The state, county, and case number of any court case in which an
24 order of support has been entered, if known;

25 (7) That the minor is seeking a judgment of emancipation; and

26 (8) Specific facts to support the petition, including:

27 (a) That the minor willingly lives apart from his or her parents or

1 legal guardian;

2 (b) That the minor is able to support himself or herself without
3 financial assistance, or, in the alternative, the minor has no parent,
4 legal guardian, or custodian who is providing support;

5 (c) That the minor is mature and knowledgeable to manage his or her
6 affairs without the guidance of a parent or legal guardian;

7 (d) That the minor has demonstrated an ability and commitment to
8 obtain and maintain education, vocational training, or employment;

9 (e) The reasons why emancipation would be in the best interests of
10 the minor; and

11 (f) The purposes for which emancipation is requested.

12 Sec. 4. Upon filing the petition, a notice of filing, together with
13 a copy of the petition for emancipation and a summons to appear at the
14 hearing, shall be served:

15 (1)(a) Upon the parents or legal guardian of the minor or, if the
16 parents or legal guardian cannot be found, the nearest known relative of
17 the minor residing within the state, if any; and

18 (b) Upon the legal custodian of the minor, if any; or

19 (2) By publication pursuant to section 25-519, if service pursuant
20 to subdivision (1) of this section is not possible.

21 Sec. 5. The court shall hold a hearing on the merits of the petition
22 no sooner than forty-five days after the date of filing but within sixty
23 days after the date of its filing. The petitioner shall notify by
24 certified mail the petitioner's parent or legal guardian or the
25 petitioner's nearest known relative residing within the state, whichever
26 is given notice under section 4 of this act, if any, and the petitioner's
27 legal custodian, if any, of the time, date, and place of the hearing at
28 least thirty days prior to the hearing date. Proof of such notice shall
29 be filed prior to the hearing on the petition. For good cause shown, the
30 court may continue the initial emancipation hearing.

31 Sec. 6. The minor's parent or legal guardian and the minor's legal

1 custodian may file an objection to the petition for emancipation within
2 thirty days of service of the notice of the hearing.

3 Sec. 7. (1) The minor has the burden of proving by clear and
4 convincing evidence that the requirements for ordering emancipation under
5 this section have been met. Prior to entering a judgment of emancipation,
6 the court shall advise the minor of the consequences of emancipation,
7 including, but not limited to, the benefits and services available to an
8 emancipated minor and the risks involved with being emancipated. Such
9 advisements shall include, at a minimum, the words to the following
10 effect:

11 (a) If you become emancipated, you will have some of the rights that
12 come with adulthood. These rights include: Handling your own affairs;
13 living where you choose; entering into contracts; keeping and spending
14 your money; making decisions regarding your own health care, medical
15 care, dental care, and mental health care, without parental knowledge;
16 enlisting in the military without your parent's consent; marrying without
17 your parent's consent; applying for public assistance; suing someone or
18 being sued; enrolling in school or college; and owning real property;

19 (b) Even if you are emancipated, you still must: Stay in school as
20 required by Nebraska law; be subject to child labor laws and work permit
21 rules limiting the number of hours you can work; and be of legal age to
22 consume alcohol; and

23 (c) When you become emancipated: You lose your right to have
24 financial support for basic living expenses for food, clothing, and
25 shelter, and health care paid for by your parents or guardian; your
26 parents or guardian will no longer be legally or financially responsible
27 if you injure someone; and being emancipated does not automatically make
28 you eligible for public assistance or benefits.

29 (2) If, after hearing, the court determines that emancipation is in
30 the best interests of the minor and that the minor understands his or her
31 rights and responsibilities under sections 1 to 10 of this act as an

1 emancipated minor, the court shall enter a judgment of emancipation. In
2 making its determination regarding the petition for emancipation, the
3 court shall determine whether the petitioner has proven each of the facts
4 set forth in subdivision (8) of section 3 of this act.

5 Sec. 8. (1) A judgment of emancipation removes the disability of
6 minority insofar as that disability may affect: (a) Establishment of his
7 or her own residence; (b) incurring indebtedness or contractual
8 obligations of any kind; (c) consenting to medical, dental, or
9 psychiatric care without the consent, knowledge, or liability of parents
10 or guardian; (d) enlisting in the military without a parent's or
11 guardian's consent; (e) marrying without a parent's or guardian's
12 consent; (f) being individually eligible for public assistance; (g) the
13 litigation and settlement of controversies; (h) enrolling in any school
14 or college; and (i) acquiring, encumbering, and conveying property or any
15 interest therein. For the purposes described in this subsection, the
16 minor shall be considered in law as an adult and any obligation or
17 benefit he or she incurs is enforceable by and against such minor without
18 regard to his or her minority.

19 (2) A minor emancipated by court order shall be considered to have
20 the rights and responsibilities of an adult, except for those specific
21 constitutional and statutory age requirements regarding voting, use of
22 alcoholic beverages, gambling, use of tobacco, and other health and
23 safety regulations relevant to the minor because of his or her age.

24 (3) The emancipated minor shall be provided a certified copy of the
25 judgment of emancipation at the time the judgment is entered. Upon
26 presentation of the judgment of emancipation, a third party shall be
27 allowed to retain a copy of the same as proof of the minor's ability to
28 act as stated in this section.

29 (4) Unless otherwise provided by the judgment of emancipation, the
30 obligation of support established for the benefit of the minor by his or
31 her parent or legal guardian is terminated by the entry of the judgment.

1 This includes child support owed by one parent to another parent. When a
2 judgment of emancipation terminates child support, the judgment of
3 emancipation shall explicitly terminate child support obligations and be
4 reported by the district court clerk to the jurisdiction in which such
5 support is ordered.

6 Sec. 9. An emancipated minor shall not be considered an adult for
7 prosecution of a criminal offense.

8 Sec. 10. (1) A motion for rescission may be filed by any interested
9 person or public agency in order to rescind a judgment of emancipation on
10 the following grounds:

11 (a) The minor has become indigent and has insufficient means of
12 support; or

13 (b) The judgment of emancipation was obtained by fraud,
14 misrepresentation, or the withholding of material information.

15 (2) The motion for rescission shall be filed in the district court
16 in which the petition for emancipation was filed. The motion for
17 rescission of a judgment of emancipation shall be granted if it is
18 proven:

19 (a) That rescinding the judgment of emancipation is in the best
20 interests of the emancipated minor; and

21 (b)(i) That the minor has become indigent and has insufficient means
22 of support; or

23 (ii) That the judgment of emancipation was obtained by fraud,
24 misrepresentation, or the withholding of material information.

25 (3) Upon filing the motion, a notice of filing, together with a copy
26 of the motion to rescind the emancipation and a notice to appear at the
27 hearing, shall be served:

28 (a) Upon the emancipated minor; and

29 (b)(i)(A) Upon the persons who were the minor's parents or legal
30 guardian prior to the minor's emancipation or, if the parents or legal
31 guardian cannot be found, the nearest known relative of the minor

1 residing within the state, if any; and

2 (B) Upon the legal custodian of the minor prior to emancipation, if
3 any; or

4 (ii) By publication pursuant to section 25-519, if service pursuant
5 to subdivision (b)(i) of this subsection is not possible.

6 (4)(a) The court shall hold a hearing on a motion filed under this
7 section no sooner than forty-five days but within sixty days after the
8 date of its filing. The movant shall notify by certified mail the
9 emancipated minor and any party provided notice under subdivision (3)(b)
10 of this section of the time, date, and place of the hearing by certified
11 mail at least thirty days before the hearing date. For good cause shown,
12 the court may continue the initial hearing.

13 (b) The emancipated minor may file a written response objecting to
14 the motion to rescind emancipation within thirty days after service of
15 the notice of the hearing.

16 (5) If, after hearing, the court determines by clear and convincing
17 evidence that rescinding the judgment of emancipation is in the best
18 interests of the minor because the minor has become indigent and has
19 insufficient means of support, or because the judgment of emancipation
20 was obtained by fraud, misrepresentation, or the withholding of material
21 information, the court shall rescind the judgment of emancipation.

22 (6) The parents or legal guardian or legal custodian of a minor
23 emancipated by court order are not liable for any debts incurred by the
24 minor child during the period of emancipation.

25 (7) Rescinding a judgment of emancipation does not affect an
26 obligation, responsibility, right, or interest that arose during the
27 period of time that the judgment of emancipation was in effect.